

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 10660 OF 2010

CENTER FOR PIL & ORS.

Appellant (s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(For consideration of the Status Report submitted by the C.B.I., the Enforcement Directorate and Income Tax Department and office report)

Date: 07/11/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s) Mr. Prashant Bhushan, Adv.
Mr. Pranav Sachdeva, Adv.

Mr. Santosh Kumar Tripathi, A.O.R.

For Respondent(s) Mr. K.K. Venugopal, Sr. Adv.
For CBI and ED Mr. Harish N. Salve, Sr. Adv.
Mr. Harin P. Raval, ASG
Mr. Rajiv Nanda, Adv.
Mr. Gopal Sankaranarayanan, Adv.
Ms. Padma Nigam, Adv.

For RR No.4 Mr. Mukul Gupta, Sr. Adv.
Mr. T.A. Khan, Adv.
Mr. V.N. Subramaniam, Adv.
Mrs. Anil Katiyar, Adv.

Mr. A.S. Chandhiok, ASG
Mr. Ritin Rai, Adv.
Mr. Ritesh Kumar, Adv.
Mr. Piyush Sanghi, Adv.

Dr. Subramaniam Swamy, Intervenor-in-Person

Mr. Arvind Kumar Sharma, A.O.R.

Mr. Satya Mitra Garg, A.O.R.

Mr. Navin Chawla, A.O.R.

Mr. Anupam Lal Das, A.O.R.

Mr. Dharmendra Kumar Sinha, A.O.R.

Mr. Gaurav Kejriwal, A.O.R.

Ms. S. Ramamani, A.O.R.

Ms. Swikriti Singhania, Adv.
Mr. Siddharth Singla, A.O.R.

Mr. Devvrat, A.O.R.

UPON hearing counsel the Court made the following
O R D E R

I.A.No.....of 2012 in Contempt Petition(C)No.224 of 2011 in C.A.No.10660 of 2010

As soon as the proceedings commenced for consideration of the pending issues arising out of the order passed by this Court on 16.12.2010, Shri K.K.Venugopal, learned senior counsel appearing for the Central Bureau of Investigation and the Enforcement Directorate handed over an application on behalf of the petitioner in Contempt Petition (Civil) No. 224 of 2011 in which the following substantive prayers have been made:

"1. Direct the stay of all proceedings in Criminal Misc.Writ Petition No.775/2012 (PIL) before the High Court of Allahabad;

2. Direct the impleadment of the Petitioner in Criminal Misc.Writ Petition No.775/2012 (PIL) before the High Court of Allahabad as a party-Contemnor/Respondent in the present proceedings;

3. Direct the stay of the enquiry initiated by the Economic Offences Wing of the State of Uttar Pradesh pursuant to the directions contained in the letter of 10.10.2012;

4. Direct the impleadment of Sri R.M.Srivastava, Principal Secretary Home, Government of U.P. as a party-Contemnor/Respondent in the present proceedings."

Shri Venugopal referred to the documents filed with the application to show that constant efforts are being made to harass and browbeat an officer who is making investigation on behalf of the Enforcement Directorate in one of the facets of 2G case.

We have perused the averments contained in the application and scrutinized the annexed documents. On 6.5.2011, this Court had passed detailed order in the contempt petition. The same reads as under:

"In the main case i.e. Civil Appeal No.10660 of 2010 titled "Center for Public Interest Litigation and others v. Union of India and others", this Court had, on 16.3.2011, issued the following direction:

"While adjourning the case, we make it clear that no one including the newspapers shall interfere with the functioning of the CBI team and the officers of the Enforcement Directorate who are investigating what has been described as 2-G scam and the Court will take serious cognizance of any endeavour made by any person or group of persons in this regard."

Shri Rajeshwar Singh, Assistant Director of Enforcement in the Directorate of Enforcement, who is investigating the case with reference to the Prevention of Money Laundering Act, 2002 (for short, "the Act") issued summons dated 2.2.2011 and 30.3.2011 to the Managing Director of M/s. Sahara Prime City Ltd. and M/s. India Commercial Corporation Ltd. under Section 50(2) and (3) of the Act requiring him to appear along with the documents mentioned in the schedule appended to the summons.

On 5.5.2011, a communication was sent to Shri Rajeshwar Singh by one Shri Subodh Jain, who described himself as reporter of Sahara Samay, asking him to answer 25 questions with an indication that Sahara News Network is planning to do a series of stories based on the documents

allegedly in its possession.

Shri K.K. Venugopal, learned senior counsel representing the C.B.I. and the Enforcement Directorate in Civil Appeal No.10660 of 2010 submitted that all the questions contained in the communication of Shri Subodh Jain are absolutely personal to Shri Rajeshwar Singh and are intended to threaten him with adverse publicity apparently because he has issued summons to the Managing Director of the organisation. Shri Venugopal then produced two sealed envelopes and stated that the same contain the answers prepared by Shri Rajeshwar Singh to the 25 questions. The sealed envelopes were opened. We have perused the answers prepared by Shri Rajeshwar Singh.

We are prima facie satisfied that an attempt has been made to interfere with the investigation being conducted by Shri Rajeshwar Singh in what has been described as 2G Scam and related matters by trying to pressurize him not to proceed with the investigation qua certain individuals. Therefore, we take suo motu cognizance and direct issue of notice.

Shri Gaurav Kejriwal, Advocate assisting Shri Sidharth Luthra, learned senior counsel accepts notice on behalf of respondent Nos.1 and 2. Shri C.D. Singh, Advocate accepts notice for respondent No.3.

Reply affidavits be filed within six weeks. Further affidavit of Shri Rajeshwar Singh may be filed within next two weeks.

List the case on 11th July, 2011.

Shri Luthra says that during the pendency of this petition and the main case, his clients or any employee of M/s. Sahara India TV Network, NOIDA, U.P. - a unit of Sahara India Commercial Corporation Ltd. and Sahara India Mass Communication, NOIDA, U.P. will not do or publish any story or programme concerning Shri Rajeshwar Singh, Assistant Director, Enforcement Directorate, Government of India.

The envelopes produced by Shri K.K. Venugopal are taken on record. The Court Masters are directed to reseal the same. The needful has been done."

The documents annexed with this application show that every possible effort has been made to interfere with the investigation being conducted by Shri Rajeshwar Singh on behalf of the Enforcement Directorate. The filing of Criminal Misc.Writ Petition No.775/2012 (PIL) in Allahabad High Court and making of similar complaint to the Principal Secretary, Home of which cognizance has been taken by the State Government and the direction has been issued to Additional Director General of Police, Economic Offence Investigation Organization, Lucknow indicate that attempts are being made to prevent the applicant from conducting the investigation fearlessly. All this prima facie amounts to violation of the direction given by this Court on 06.05.2011.

Issue notice to the respondents as also the State of Uttar Pradesh through Principal Secretary, Home, returnable on 29.11.2012. Dasti, in addition.

In the meanwhile, the proceedings of Criminal Misc.Writ Petition No.775/2012 (PIL) titled Vinod Kumar vs. Union of India and others pending before the Allahabad High Court at Allahabad shall remain stayed.

We also direct the Government of Uttar Pradesh and all officers subordinate to it not to proceed with any enquiry or investigation into the

complaint made by Shri Manvendra Pratap Singh, Advocate on 15.09.2012 or any similar complaint which may be made by any other person against the applicant.

Let this I.A. be listed on 29.11.2012.
To be taken up at 2.00 P.M.

Civil Appeal No.10660 of 2010

Learned Additional Solicitor General produced sealed envelopes containing Progress Report dated 29.10.2012 in relation to the following cases:

1. CBI Case No.RC DAI 2009 A 0045 (2G Spectrum Case)
2. CBI Case No.RC DAI 2011 A 0022 (Aircel Maxis Case)
3. CBI Case No.RC DAI 2011 A 0024 (Addl.Spectrum Case)

The Registry of the Court has also submitted a sealed envelope received from the Central Vigilance Commission.

Both the envelopes were opened in the Court. Shri K.K.Venugopal, learned senior counsel appearing for the Central Bureau of Investigation and the Enforcement Directorate took us through two parts of the report and gave reply to certain queries.

For further consideration of the report and other issues, the case will be taken up on 08.11.2012 at 2.00 P.M.

The Court Masters are directed to put both the Reports in separate sealed envelopes. The needful has been done.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master